IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 20748 of 2004

Between:

Avula Chinna Venkata Ramaiah, S/o.A.Siva Ramaiah,
aged 46 years, Occ: Employee, working as Panchayat Secretary,

Gram Panchayat, Tiruchanur, Tirupati Rural Mandal, Chittoor District.

..... PETITIONER

AND

1. The Government of Andhra Pradesh, rep.by the Secretary,

Panchyat Raj & Rural Employment, Hyderabad.

2. The District Collector, Chittoor District, Chittoor.

3. S.Swamy Dass, S/o. Not Known to the petitioner,
aged 36 years, Occ: employee, working as Panchayat Secretary, Rompicherla Gram Panchayat, Chittoor Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more in the nature of certiorari calling for the records relating to and connected with the order dated 3-11-2004 as made in O.A.No.4945/2004 of the Honourable A.P. Administrative Tribunal and quash the same while declaring the order of the 2nd respondent dated No.1544/04-A2 (pts), dated 21-8-2004, whereunder the petitioner was transferred in the middle of the academic year in total derogation of G.O.Ms.No.512, Finance (W&M) Dept., dated 14-06-2004, within eight months from the date of petitioner's assuming the charge, in a punitive manner, as being illegal and arbitrary, besides being violative of Articles 14, 16 and 300-A of the Constitution of India, as well as against the established Judicial precedents, doctrines of promissory estoppel and legitimate expectation, apart from being violative of principles of natural justice and fair play, and consequently set aside the same.

Counsel for the Petitioner: MR.D.SESHADRI NAIDU

Counsel for the Respondent Nos.1 & 2: GP FOR SERVICES II.

Counsel for the respondent No.3: None appeared

The Court made the following :

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ORDER: (Per Sri G.B,J)

The writ petition is filed assailing the order dated 03.11.2004 passed by the A.P. Administrative Tribunal, Hyderabad, in O.A.No.4945 of 2004.

2. The matter relates to transfer of Panchayat Secretary from Gram Panchayat, Tiruchanoor to Gram Panchayat, Rompicherla, Chittoor District. The Tribunal, however, refused to interfere with the orders of transfer and thus dismissed the O.A.No.4945 of 2004. Against the said order, the present writ petition has been filed.

3. Learned counsel for the petitioner tried to convince this Court by submitting that the transfer is *mala fide* and passed at the behest of the unofficial respondent. Further, the petitioner submits that he has completed only 8 months of service. The relaxation of ban imposed under G.O.Ms.No.512 Finance (W & M) Dept., dated 14.06.2004 squarely applies in this case. Hence, the order of the Tribunal is liable to be set aside.

4. Heard the learned counsel for petitioner and also the learned Government Pleader for Services-II appearing for the respondents.

5. We find no ground to interfere with the order passed by the Tribunal, as the orders for relaxation of ban by the competent Authority was also obtained. As can be seen from the order of the Tribunal that the transfer is an incidence of service and it may not be claimed as of right. The Tribunal discussed the issue in paras 6, 7 and 8 which reads thus:

> " This Tribunal has perused the file pertaining to he impugned order. It is seen that the applicant was under pains of disciplinary proceedings while he was working as Panchyat Secretary at Kuppam Gram Panchayat. He was placed under suspension and came to be reinstated and posted at Tiruchanoor. At Tiruchanoor Gram Panchayat also a memo dt.06.5.2004 was issued to take action to realize an amount of Rs.23,52,108/- dues from the lessee. The applicant has not adhered to the instructions of the higher authorities and has given room to the lessee indirectly to file a case against the Gram Panchayat before the Hon'ble High Court.
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> Further it is seen that the request of the third respondent was considered by the Official

respondent and proposals for transfer of employees were submitted to the commissioner of Panchayat Raj for approval. It is also seen that the commissioner of Panchayat Raj has approved transfer proposals submitted during the lifting of the ban period. Consequent to approval of the proposals, the impugned orders have been passed on administrative grounds as per law.

It is also seen that the administrative ground has necessitated the impugned transfer orders. The order of transfer is an administrative order and as per the catena of decisions of the Hon'ble Supreme Court and High Court, the transfer is an incidence of service, this Tribunal cannot interfere in the matter. Only on twin grounds for want of jurisdiction and mala fide grounds, this Tribunal is entitled to interfere with. Both these grounds are not made out warranting any interference. Therefore, viewed from any angle, the impugned order is sustainable in the eye of law. The O.A., is devoid of merits and it is accordingly, dismissed."

In view of the findings recorded by the Tribunal in O.A.No.4945 of 2004, we are not inclined to interfere with the order of the Tribunal.

6. The writ petition is, accordingly, dismissed. No costs.

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G.BIKSHAPATHY,J

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P.S.NARAYANA,J

Date: 13th December 2004.

*BSB/CHV

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary, Government of Andhra Pradesh,

Panchyat Raj & Rural Employment, Hyderabad.

2. The District Collector, Chittoor District, Chittoor.

3. The Registrar, A.P. Administrative Tribunal, Hyderabad.

4. Two CCs to the Government Pleader for Services-II, High Court

Buildings, Hyderabad (OUT).

5. Two CD copies.